

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

Acacia Media Technologies Corporation,

NO. C 05-01114 JW

Plaintiff,

**ORDER FOLLOWING CASE
MANAGEMENT CONFERENCE**

v.

New Destiny Internet Group, et al.,

Defendant(s).

And All Related and/or Consolidated Case Actions

The Court conducted a case management conference on June 14, 2005. Counsels for the Plaintiff and counsels for all Defendants were present. Defendants from the Central District and the Arizona District appeared telephonically.

As to pending motions, the parties stipulated to the following:

- 1) With respect to the "Adult Entertainment Cases", Plaintiff voluntarily withdraws its Motion for Certification of a Defendant Class Action.
- 2) With respect to the "Cable/Satellite Cases", Defendants Cable America Corporation, Cable One, Inc., and NPG Cable, Inc., voluntarily withdraw their Motions for More Definite Statement.
- 3) The Plaintiff and Defendants from the Northern District of Ohio and Minnesota stipulated to Defendants' Motion to Add Counterclaims.

4) Plaintiff's Motion for Clarification of the Role of Rainer Schulz was discussed. The Court has issued a separate Order proposing to amend the terms of appointment and allowing the parties a period of time to make any objections.

5) Plaintiff's Motion for Consolidation is deemed moot in light of the MDL order.

In light of the MDL order, the Court invites any party who wishes to file a Motion for Reconsideration of the Court's Markman Order issued on July 12, 2004 to do so in accordance with the schedule set forth below. In the motion, the party shall identify the terms for which reconsideration is sought and any additional terms in the 992 and 702 patents that should be defined. A hearing is set for **September 8 and 9, 2005, from 9 a.m. to 4 p.m.** Pursuant to the Local Patent Rules of Court, all parties shall:

- 1) No later than **July 29, 2005** serve on all other parties Proposed Terms and Claim Elements for Construction pursuant to Patent L.R. 4-1 and Preliminary Claim Constructions and Extrinsic Evidence pursuant to Patent L.R. 4-2.
- 2) No later than **August 25, 2005** file a Joint Claim Construction Statement and Prehearing Statement pursuant to Patent L.R. 4-3. The statement shall be presented in the following chart format:

| Disputed Term | Plaintiff's Proposed Construction | Defendant's Proposed Construction |
|---------------|-----------------------------------|-----------------------------------|
|---------------|-----------------------------------|-----------------------------------|

The parties shall express their proposed construction in a manner suitable for incorporation into a jury instruction.

For future case management conference, parties wishing to appear telephonically shall meet and confer and set up their own conference call in number. The parties shall notify the Courtroom Deputy Clerk, Mr. Ron Davis, three days prior to the date of conference.

None of the dates set in this Order may be changed without an order of the Court made after a motion is duly filed and made pursuant to the Local Rules of this Court.

Dated: June 21, 2005

/s/ James Ware
JAMES WARE
United States District Judge

THIS IS TO CERTIFY THAT COPIES OF THIS ORDER HAVE BEEN DELIVERED TO:

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Dated: June 21, 2005

Richard W. Wicking, Clerk

By: /s/ JW Chambers
Ronald L. Davis
Courtroom Deputy